

JUN 23 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ANNETTE MCCLENDON,

Plaintiff - Appellant,

v.

CITY OF STOCKTON, CALIFORNIA; et
al.,

Defendants - Appellees.

No. 04-16783

D.C. No. CV-03-00482-WBS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, Chief Judge, Presiding

Submitted June 12, 2006 ^{**}

Before: WALLACE, KLEINFELD, and BERZON, Circuit Judges.

Annette McClendon appeals from the district court's summary judgment in favor of defendants in her 42 U.S.C. § 1983 action alleging that police officers

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

illegally searched her house. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Lockheed Martin Corp. v. Network Solutions, Inc.*, 194 F.3d 980, 983 (9th Cir. 1999), and we affirm.

The district court properly granted summary judgment for the defendants because the evidence showed that McClendon's son, who had acquiesced to warrantless searches of his residence as a term of his probation, had represented to his probation officer that he resided in McClendon's house. *See Motley v. Parks*, 432 F.3d 1072, 1080 (9th Cir. 2005) (en banc). Defendant officers thus had probable cause to believe McClendon's son was a resident of her house, and were entitled to maintain that belief despite McClendon's assertions to the contrary. *See id.* at 1080-82. The record shows that the officers did learn that McClendon's son was in jail, but not until the search was completed.

All remaining contentions are unpersuasive.

AFFIRMED.